

## Article - Natural Resources

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§5–904.

(a) (1) Each year the Department, in consultation with the Department of Planning, shall prepare a list of recommended State projects for funding under this program for the next fiscal year.

(2) In preparing the list, the Department shall give priority to properties in targeted areas.

(3) Prior to submitting the list to the Department of Budget and Management for inclusion in the budget, the legislators from the district within which the Department is proposing a State acquisition project shall be given an opportunity to review and comment on the project.

(4) The list shall be submitted to the General Assembly in a manner similar to other capital projects as provided in Title 3, Subtitle 6 of the State Finance and Procurement Article.

(5) (i) The Department, for each project recommended under this subsection, shall consider whether it is feasible to provide public access to the recreational and open space site.

(ii) When considering whether it is feasible to provide public access to a site under this paragraph, the Department may consider:

1. The availability of funds available under this program or from other sources to provide public access to the site;

2. Public safety and liability issues if public access were provided to the site;

3. Whether the site was acquired as a part of a larger recreational and open space project that is not yet completed and ready for public access; and

4. The existence of a contractual commitment on the site that would limit public access for a period of time, including a home, agricultural, or hunting lease.

(b) (1) There is an Advance Option and Purchase Fund.

(2) A portion of funds available under this program for State projects may be appropriated in the State budget for the Advance Option and Purchase Fund.

(3) (i) The Department may use funds available in the Advance Option and Purchase Fund to obtain options to purchase lands in targeted areas or to otherwise purchase land.

(ii) Notwithstanding the provisions of § 10–306 of the State Finance and Procurement Article, any money received by the State as consideration for property acquired under this subtitle shall be deposited in the Advance Option and Purchase Fund.

(4) Funds available in the Advance Option and Purchase Fund shall be allocated in the following order of priority:

(i) First to obtain an option on any parcel of land in a targeted area in advance of purchase, or to purchase a specific tract of land in a targeted area; and

(ii) Then to purchase property on which an option has been obtained or any other parcel of land.

(5) (i) Before the Department makes an expenditure from the Advance Option and Purchase Fund, the Department shall submit the proposed expenditure with complete supporting documentation to the budget committees of the General Assembly for review and comment by those committees.

(ii) The budget committees have 45 days after receipt of the documentation to submit comments to the Board of Public Works.

(6) Any expenditure of funds from the Advance Option and Purchase Fund is subject to the approval of the Board of Public Works.

(c) (1) There is a Bay Access Areas Fund.

(2) A portion of the funds available under this program for State projects may be appropriated in the State budget for the Bay Access Areas Fund.

(3) The Department may use funds available in the Bay Access Areas Fund to:

(i) Purchase sites that provide public access to a body of water; or

(ii) Enhance public access to a body of water on an existing recreational and open space site.

(4) In purchasing sites under this subsection, the Department shall give preference to sites that:

(i) 1. Are directly on the bay; or

2. Are on a tributary of the bay and are near the bay;

(ii) Are near a population center;

(iii) Are readily accessible by the public; and

(iv) Would fulfill a need for public water access identified in the Maryland Land Preservation and Recreation Plan or a local land preservation and recreation plan.

(5) (i) Before the Department makes an expenditure from the Bay Access Areas Fund, the Department shall submit the proposed expenditure with complete supporting documentation to the budget committees of the General Assembly for review and comment by those committees.

(ii) The budget committees have 45 days after receipt of the documentation to submit comments to the Board of Public Works.

(6) Any expenditure of funds from the Bay Access Areas Fund is subject to the approval of the Board of Public Works.

(d) (1) The Department and the Maryland Environmental Trust, with the approval of the Board of Public Works, may:

(i) Use State project funds under Program Open Space to contribute towards, or reimburse the Department of Transportation for, a portion of the costs of acquiring any fee titles, restrictive covenants, or conservation easements for which the Department of Transportation spends federal funds for transportation enhancements, as defined in Title 23, United States Code, §§ 101(a) and 133; and

(ii) Acquire the fee titles, restrictive covenants, or conservation easements from the Department of Transportation or any of its agents.

(2) State project funds under Program Open Space may be used to contribute toward, or reimburse the Department of Transportation for, a portion of

the costs of acquiring any fee titles, as specified in paragraph (1) of this subsection, only for acquisitions that are contained in the most current consolidated transportation plan of the State.

(e) (1) Regarding any proposed acquisition of real property for the use of the Department after June 30, 1995, the Department may submit to the Board of Public Works for approval at the same time as the acquisition, a plan for subsequent disposition of any portion of the real property.

(2) When disposing of property pursuant to a plan approved under paragraph (1) of this subsection, the Department shall impose any restrictive covenants or conservation easements on the property that the Department deems necessary to protect natural features or to assure that uses of the property will be compatible with any adjacent property held by the Department. Prior to disposing of the property, the Department shall notify and consider any comments from the local jurisdiction in which the property is located. Right of first refusal to purchase the property from the Department belongs first to the municipal corporation in which the property is located, if any, and second to the county in which the property is located.

(3) Property conveyed pursuant to a plan for disposition approved under paragraph (1) of this subsection is not excess real property under § 5–310 of the State Finance and Procurement Article.

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